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Federal Communications Commission

DA 02-3363

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 02-197
Table of Allotments,)	RM-10.509
FM Broadcast Stations.)	
(Bishopville and Lamar, South Carolina))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: December 4, 2002

Released: December 9, 2002

By the Assistant Chief, Audio Division:

1. The Audio Division has before it the *Notice of Proposed Rule Making ("Notice")* issued in response to a petition for rule making filed by Miller Communications, Inc., ("Petitioner"), licensee of Station WKHT(FM) ("WKHT"), Channel 229A, Bishopville, South Carolina. Petitioner requests the reallocation of Channel 229A to Lamar, South Carolina, as that community's first local aural transmission service, and the modification of Station WKHT's license to specify Lamar as its community of license. Petitioner filed comments reaffirming its proposal and reiterating its intent to implement its proposal if the Commission reallocates Channel 229A to Lamar. No other party filed comments or any other pleading in this proceeding. For the reasons stated below, we grant Petitioner's request to change its community of license to Lamar.

2. Petitioner filed its request to reallocate Channel 229A to Lamar, South Carolina, pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.¹

3. We believe that the public interest would be served by reallocating Channel 229A from Bishopville to Lamar because Lamar would receive its first local aural transmission service. The reallocation of Channel 229A to Lamar would not deprive Bishopville of its sole local aural transmission outlet because Bishopville would continue to be served by AM Station WAGS. Since Petitioner intends to utilize its present transmitter site for the reallocation of Channel 229A to Lamar, there are no gain or loss areas associated with this proposal. Therefore, in accordance with the provisions of Section 1.420(i) of the Commission's Rules, we will modify the license of Station WKHT to specify operation on Channel 229A at Lamar, South Carolina.

4. Channel 229A can be allotted to Lamar, South Carolina, in conformity with the technical requirements of the Commission's Rules, utilizing Petitioner's requested site at the coordinates of 34-07-10 North Latitude and 80-0849 West Longitude, with a site restriction of 9.5 kilometers (5.9 miles)

¹ *Bishopville and Lamar, South Carolina*, 17 FCC Rcd 14440 (2002)

² See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in pari*, 5 FCC Rcd 7094 (1990).

southwest of Lamar. South Carolina

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(h) of the Communications Act of **1934**, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, **IT IS ORDERED**. That effective **January 24, 2003**, the **FM** Table of Allotments, Section 73.202(b) of the Commission's Rules, **IS AMENDED** for the community listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Bishopville, South Carolina	-----
Lamar, South Carolina	229A

6. **IT IS FURTHER ORDERED**, pursuant to Section 316(a) of the Communications Act of 1934, as amended, **that** the license of Miller Communications, Inc., for Station WKHT(FM), Bishopville, South Carolina, **IS MODIFIED** to specify operation on Channel 229A at Lamar, South Carolina, subject to the following conditions:

(a) Within **90** days of the effective date of this **Order**, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's Rules.

(c) Nothing contained herein shall **be** construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. Pursuant to Commission Rule Section 1.1104(l)(k) and (3)(m), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, **Miller** Communications, Inc., licensee of Station WKHT(FM), is required to submit a rule making fee in addition to the fee required for the application to effect the change in community of license.

8. IT IS FURTHER ORDERED That this proceeding **IS TERMINATED**.

9. For **further** information concerning the above, contact R. Barthen Gorman, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau